

**Automobile Club of Michigan; Detroit Automobile Inter-Insurance Exchange; Motor Land Insurance Company; Group Insurance Company of Michigan; and Member Life Insurance Company of Michigan and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW. Case 7-CA-20349**

13 September 1983

### DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS  
ZIMMERMAN AND HUNTER

On 14 January 1983 Administrative Law Judge Lowell Goerlich issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and Respondent filed a cross-exception to the Decision of the Administrative Law Judge and an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,<sup>1</sup> and conclusions of the Administrative Law Judge and to adopt his recommended Order.

### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

<sup>1</sup> The General Counsel excepted to the Administrative Law Judge's statement that "there is an inference that because of Stevens' position as a branch manager, he would have answered the question as he related . . . ." In adopting the decision of the Administrative Law Judge, we do not rely on this inference.

Additionally, Respondent excepted to this statement, maintaining that Stevens is not the branch manager, but rather Respondent's regional director. As the record supports this contention and the General Counsel did not indicate opposition to Respondent's position, the Decision is so corrected.

### DECISION

#### STATEMENT OF THE CASE

LOWELL GOERLICH, Administrative Law Judge: The charge filed on February 23, 1982, by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, hereinafter called the Union, was served on Automobile Club of Michigan; Detroit Automobile Inter-Insurance Ex-

change; Motor Land Insurance Company; Group Insurance Company of Michigan; and Member Life Insurance Company of Michigan, Respondents herein, by certified mail on or about February 24, 1982. A complaint and notice of hearing was served on March 23, 1982, wherein it was alleged that Respondents, by their agent, told employees that more burdensome working rules were being implemented because of the employees' support for, and activities on behalf of, the Union in violation of Section 8(a)(1) of the National Labor Relations Act, as amended, herein referred to as the Act.

Respondents filed a timely answer denying that they had engaged in the unfair labor practices alleged.

The case came on for hearing in Detroit, Michigan, on October 7, 1982. Each party was afforded a full opportunity to be heard, to examine and cross-examine witnesses, to argue orally on the record, to submit proposed findings of fact and conclusions, and to file briefs. All briefs have been carefully considered.

Upon the entire record in this case and my observation of the witnesses and their demeanor, I make the following:

### FINDINGS OF FACT, CONCLUSIONS, AND REASONS THEREFOR

#### I. BUSINESS OF RESPONDENTS

Each of Automobile Club of Michigan, Detroit Automobile Inter-Insurance Exchange, Motor Land Insurance Company, Group Insurance Company of Michigan, and Member Life Insurance Company of Michigan is, and has been at all times material herein, a corporation duly organized under, and existing by virtue of, the laws of the State of Michigan.

At all times material herein, Respondents have maintained their principal office and place of business at Auto Club Drive, Dearborn, Michigan, herein called Respondents' main office. Respondents maintain branch offices throughout the State of Michigan. Respondent AAA is, and has been at all times material herein, engaged in the business of providing travel information and other services to its membership. Each of Respondent Exchange, Respondent Motor Land, Respondent Group Life, and Respondent Member Life is, and has been at all times material herein, engaged in the business of providing automobile, boat, homeowner's, or life insurance to members of Respondent AAA.

Respondents are, and have been at all times material herein, affiliated businesses conducted under centralized management and financial control, with interlocking stockholdership, boards of directors, and officers and constitute a single integrated business enterprise in which the aforesaid management, directors, and officers formulate and administer a common labor policy for Respondents, affecting the employees of Respondents.

During the years ending December 31, 1980, and 1981, which period is representative of their operations during all times material herein, Respondents, in the course and conduct of their business operations, have received gross revenues in excess of \$500,000, and have paid insurance claims valued in excess of \$50,000, which payments have

been made directly in interstate commerce across state lines.

Each of Respondents is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

## II. THE LABOR ORGANIZATION INVOLVED

The Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.<sup>1</sup>

## III. THE UNFAIR LABOR PRACTICES

Prior to August 25, 1981, Respondents and the exclusive bargaining agent of their employees had engaged in collective bargaining which had not culminated in a collective-bargaining agreement, but had resulted in an impasse. Thus the employer chose to put into effect certain work rules. According to Heinz Topol, branch manager for Respondents at their Plymouth branch, a meeting was convened of Respondents' Plymouth sales representatives on August 25, 1981. Topol testified, "The main purpose of the meeting was for me to go over the work rules and to answer questions that came up." Around 13 employees were present at the meeting together with Topol, Richard Stevens, regional director of region 4, and Joyce G. Hylton, administrative manager at the Plymouth office. Five of the employees present testified, as did Topol, Stevens, and Hylton. It appeared at the meeting that a substantial number of employees did not favor the institution of the rules.

According to Topol the atmosphere of the meeting was "tense . . . the sales representatives were somewhat angry and at times it was rather confusing" and "at all times not a very orderly meeting." There were many questions asked. Hylton testified, "The sales staff was trying to get Mr. Stevens and Mr. Topol to indicate that

the meeting was because they were sort of like a punishment type of thing because they were union."

Among the questions which were posed at the meeting was one which, if answered "yes," would have placed the onus for Respondents' imposition of the work rules on the employees because of their affection for the Union.<sup>2</sup> The General Counsel's witnesses all testified that Stevens answered "yes" to the question. Respondents' witnesses' testimony was negative.

I have been unable from my observation of the demeanor of the witnesses to determine which group's testimony is to be relied on. Indeed, in view of the confusion that was attendant on the meeting and the great number of questions parried at the same time, it seems unlikely that anyone present could have accurately recalled the exact response, if any, to the specific question, *supra*.<sup>3</sup> However, there is an inference that because of Stevens' position as a branch manager he would have answered the question as he related, "My response was the reason that we had work rules is because of the bargaining between both union and management and the fact that they had reached an impasse."

Since the General Counsel's whole case hangs on a finding that Stevens answered "yes" to the question, *supra*, and I cannot find by a preponderance of the evidence that such answer was given, the complaint must be dismissed in its entirety.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

## ORDER<sup>4</sup>

It is hereby ordered that the complaint be, and it hereby is, dismissed in its entirety.

<sup>1</sup> Michigan AAA Sales Association, Inc., was certified on February 7, 1978, as the exclusive representative of Respondents' employees in the following unit:

All insurance sales representatives, including commissioned sales representatives, salaried sales representatives, and service representatives employed by Respondents at the branch offices located in the counties of Wayne, Oakland, and Macomb, in the State of Michigan; but excluding all branch managers, assistant branch managers, sales administrative department employees, guards and supervisors as defined in the Act.

On August 26, 1981, Michigan AAA Sales Association, Inc., affiliated with the Union herein. On August 25, 1982, Administrative Law Judge Miller, in Cases 7-CA-19020 and 7-CA-19826, held that the affiliation was invalid.

<sup>2</sup> Kirkland Kohn testified that he asked the question: "Are you imposing the rules on us because we favored a sales union or a bargaining unit or something like that?"

<sup>3</sup> In this regard Hylton testified, "They asked a lot of questions, sometimes so fast you didn't even get an answer to one question before another question was already asked. Sometimes there were three or four at a time." She continued, "Some of the questions weren't even answered. Some of the answers were no. Some were yes." Thus there was a strong probability that a listener may have mistakenly ascribed a "yes" answer to the question for which a "no" answer was meant or the opposite.

<sup>4</sup> In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.